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Attorneys for Albert J. Alvarez

_____	:	
ALBERT J. ALVAREZ,	:	SUPERIOR COURT OF NEW JERSEY
Plaintiff	:	MIDDLESEX COUNTY
	:	CASE NO. _____
v.	:	
	:	
MIDDLESEX COUNTY PROSECUTOR'S	:	VERIFIED COMPLAINT
OFFICE,	:	
Defendant.	:	
_____	:	

Plaintiffs Albert J. Alvarez, by way of Verified Complaint against Defendant Middlesex County Prosecutor's Office (the "MCPO"), says:

PARTIES

1. Plaintiff Albert J. Alvarez is an individual residing at 209 Roosevelt Avenue, Hasbrouck Heights, New Jersey 07604.

2. Defendant MCPO is an office of the Division of Criminal Justice of the New Jersey Attorney General's Office, located at 25 Kirkpatrick Street, New Brunswick, New Jersey.

VENUE

3. Middlesex County is the proper venue for the allegations contained in this Complaint in that the cause of action arises from the actions of Defendant MCPO, which is located in Middlesex County.

FACTS

4. On October 14, 2018, The Wall Street Journal published an article in which Katherine Brennan, a volunteer in the 2017 gubernatorial campaign for Philip D. Murphy, claimed that Mr. Alvarez, who was employed by the campaign, sexually assaulted her after a campaign gathering in April 2017 (the “WSJ article” included as Exhibit A).

5. Ms. Brennan reported the alleged incident to police, but after conducting an investigation into the allegations, the Hudson County Prosecutor’s Office (“HCPO”) declined prosecution of Mr. Alvarez in late November 2017.

6. Ms. Brennan claims that around the time of the HCPO decision, she reported the alleged incident to members of the Murphy transition team, but her reports went unheard. Mr. Alvarez was subsequently hired by the Murphy Administration after the inauguration of Governor Murphy in January 2018, as was Ms. Brennan.

7. According to WSJ article, Ms. Brennan repeatedly reached out to members of the Murphy Administration regarding the incident, but Mr. Alvarez did not leave his position until late 2018.

8. In response to media attention from the WSJ article, on October 29, 2018, the New Jersey Senate and General Assembly passed Senate Concurrent Resolution No. 148 on October 29, 2018, establishing the New Jersey Legislative Select Oversight Committee (the “Committee”) (Resolution No. 148 included as Exhibit B).

9. Per Resolution No. 148, the Committee was tasked with reviewing:

- a. the appropriateness of the Hudson County Prosecutor's actions to oversee the handling of the certain allegations of sexual assault by the Government Official upon completion of Attorney General's review but not later than January 5, 2019 and

- b. all aspects of the policies and procedures regarding the screening of prospective employees and continued employment in the public sector of persons with questionable backgrounds, including any operations or practices concerning the handling of claims of sexual assault, abuse, or harassment.

10. The resolution gave the Committee the investigative powers conferred by Chapter 13 of Title 52 of the Revised Statutes of New Jersey, including, but not limited to, the power to issue subpoenas to compel attendance and testimony of persons. The Committee was also given the power to “report possible violations of any law, rule, regulation, or code to appropriate federal, State, or local authorities.”

11. The Attorney General also took the unusual step of referring the case to the Middlesex County Prosecutor’s Office (the “MCPO”) to review the decision of the HCPO. Thereafter, the MCPO independently determined that there was insufficient credible evidence to pursue prosecution, again without empaneling a grand jury. (Article Regarding MCPO Announcement included as Exhibit C).

12. The Attorney General also reviewed the conduct of HCPO based on allegations of conflict, and ultimately determined that the matter was handled appropriately. (Article Regarding AG Announcement included as Exhibit D).

13. Despite this, Mr. Alvarez’s guilt has become a foregone conclusion and the truth has become inconsequential. The origin of the Committee is undoubtedly rooted in the predetermined conclusion that Mr. Alvarez committed the alleged sexual assault on Ms. Brennan. As demonstrated throughout the hearings, the Committee has readily assumed that Mr. Alvarez is guilty of the accusations, praising the credibility of Ms. Brennan and vilifying the decision by not one, but two county prosecutors’ not to file charges against Mr. Alvarez.

14. The Commission has not reviewed the files from either the HCPO or the MCPO, which would clearly shed light on the validity of the allegations.

15. Mr. Alvarez has consistently maintained that he is innocent of the accusations made against him and that any sexual contact between the parties was consensual. This is borne out by the HCPO and MCPO's refusal to prosecute Mr. Alvarez, despite intense political pressure to do so.

16. Most recently, on February 26, 2019, the Committee heard testimony from Patricia Teffenhart, the executive director of the New Jersey Coalition Against Sexual Assault, which prompted several members of the Committee to question the validity of the HCPO and MCPO decision not to empanel a grand jury in the matter. (Article regarding February 26, 2019 hearing included as Exhibit E).

17. Thereafter, on February 27, 2019, the Committee served a subpoena on Mr. Alvarez, compelling him to testify regarding "certain matters relevant to the committee's inquiry and investigation into all aspects of the policies and procedures regarding the screening of prospective employees and continued employment in the public sector of persons with questionable background." (Copy of subpoena included as Exhibit F).

18. In anticipation of his testimony, on February 20, 2019, this office sent a letter to the MCPO requesting access to investigative file under the common law right of access to public records (Copy of letter to MCPO included as Exhibit G).

19. The MCPO required a written court order to release any discovery related to the matter. (Copy of response from MCPO included as Exhibit H). The letter further stated that any information acquired through the grand jury process, i.e., phone records, bank records, hospital records, etc., is privileged and cannot be provided absent a court order. As such, Mr. Alvarez

makes this expedited motion to obtain the records prior to his testimony before the Committee next week.

20. Mr. Alvarez's ability to defend himself is severely hampered by the fact that neither he nor the Committee have reviewed the files of the HCPO and the MCPO. Similar to a criminal defendant facing trial, Mr. Alvarez is entitled to this discovery before being compelled to provide testimony to the Committee.

COUNT ONE
Common law right of access to records

21. Plaintiff re-alleges and incorporates by reference the allegations in the foregoing paragraphs as if fully set forth herein.

22. The investigative files of the MCPO constitute public records available for inspection under the common law in that they are documents recorded, generated, or produced by public officials, whether or not required by law to be made, maintained, or kept on file.

23. Plaintiff is an "interested party" pursuant to the common law right of access to records in that the file is based on an investigation into sexual assault allegations against him, about which he is compelled to provide testimony before the New Jersey Legislative Select Oversight Committee.

24. Plaintiff's need for access to these documents outweighs the MCPO's interest in their confidentiality.

WHEREFORE, Plaintiff demand that the Defendant be preliminarily enjoined as follows:

1) Compelling the Middlesex County Prosecutor's Office to immediately release the full contents of its investigative case file (which shall include the entire contents of the HCPO

investigative file previously sent to MCPO for review) regarding the above-referenced allegations to counsel for the Mr. Alvarez, which shall include, but not be limited to, the following:

- a) Any/all witness statements, including audio/video recordings of such statements, and corresponding written investigative reports outlining such statements.
- b) Any/all audio/video recordings, including any surveillance recordings from the night of the alleged incident;
- c) Any/all hospital records;
- d) Any/all DNA evidence, and corresponding lab reports/analyses;
- e) Any/all investigative reports and corresponding case notes;
- f) Any/all bank records;
- g) Any/all phone records; and
- h) Any/all documents/materials obtained during the investigation including but not limited to email messages, text messages, and/or photographic images.

DATED this 8th day of March 2019

/s/Stacy A. Biancamano
Stacy Ann Biancamano, Esq.
Attorney for Albert J. Alvarez

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Stacy Ann Biancamano, Esq. is hereby designated as trial counsel for the Plaintiff.

Date: March 8, 2019

By: /s/Stacy A. Biancamano

Stacy Ann Biancamano, Esq.
Attorney for Albert J. Alvarez

CERTIFICATION OF NO OTHER ACTIONS

The file in controversy is not the subject of any other action pending in any other court or of a pending arbitration proceeding to the best of my knowledge and belief. Although the New Jersey Legislative Select Oversight Committee is investigating the hiring practices as to the allegations against Mr. Alvarez, counsel for the Committee has specifically stated that the Committee does not intend to subpoena the files in question. Ms. Brennan has filed a civil employment suit related to the handling of her sexual assault allegations by the administration, docket no. MER-L-000034-19, but to date, an answer has not yet been filed by any of the parties.

Other than the parties set forth in this pleading, I know of no other parties that should be joined herein. I recognize the continuing obligation of each party to file and serve on all parties and the court an amended certification, if there is a change in the facts stated in this original certification.

Date: March 8, 2019

By: /s/Stacy A. Biancamano

Stacy Ann Biancamano, Esq.
Attorney for Albert J. Alvarez

AFFIDAVIT OF VERIFICATION

I verify that I have read the allegations contained in the proceeding Verified Complaint and found them to be true to the best of my knowledge, information and belief. I am aware that if any of the allegations contained in the proceeding Verified Complaint are willfully false, I am subject to civil and criminal punishment.

Dated: March 8, 2019

By: /s/Stacy A. Biancamano
STACY ANN BIANCAMANO